

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

LEONARD BULLOCK,) **Case No.:**
)
Plaintiff,)
)
v.)
)
APRIA HEALTHCARE GROUP,)
INC.,) **JURY TRIAL DEMANDED**
)
Defendant.)
)
)
)
)

COMPLAINT

LEONARD BULLOCK (“Plaintiff”), by and through his attorneys,
KIMMEL & SILVERMAN, P.C., alleges the following against APRIA
HEALTHCARE (“DEFENDANT”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection
Act, 47 U.S.C. §227 *et seq.* (“TCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See
Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the State of Arizona, thus,

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Payson, Arizona 85541.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation with its principal place of business located at 26220 Enterprise Court, Lakeforest, CA 92630.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number.

11. Plaintiff has only used this number as a cellular telephone number.

12. Defendant called Plaintiff repeatedly and continuously on his cellular telephone in regards to an alleged medical debt that pertained to Plaintiff's wife.

13. When contacting Plaintiff on his cellular telephone, Defendant used an automatic telephone dialing system and/or pre-recorded voice.

1 14. Plaintiff knew that Defendant was using an automatic telephone
2 dialing system and/or pre-recorded voice as he would usually greeted by a
3 recording before a representative came on the line.
4

5 15. Defendant's telephone calls were not made for "emergency purposes."

6 16. Shortly after Defendant's calls began Plaintiff spoke with Defendant
7 and told them to stop calling and requested that they resubmit the medical claim to
8 the Plaintiff's wife's health insurance provider.
9

10 17. However, Defendant ignored Plaintiff's request and continued to call
11 him.
12

13 18. Plaintiff found Defendant's repeated calls annoying, frustrating,
14 upsetting, harassing, and an invasion of his privacy.

15 19. Upon information and belief, Defendant conducts business in a
16 manner which violates the Telephone Consumer Protection Act.
17
18

19 **COUNT I**
20 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER**
21 **PROTECTION ACT**

22 20. Plaintiff incorporates the forgoing paragraphs as though the same were
23 set forth at length herein.

24 21. Defendant initiated automated calls to Plaintiff using an automatic
25 telephone dialing system.
26

1 22. Defendant's calls to Plaintiff were not made for emergency purposes.

2 23. After Plaintiff told Defendant to stop calling, Defendant knew or
3 should have known it did not have consent to call and/or that any consent it
4 thought it had was revoked.

5
6 24. Defendant's acts as described above were done with malicious,
7 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
8 under the law and with the purpose of harassing Plaintiff.

9
10 25. The acts and/or omissions of Defendant were done unfairly,
11 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
12 lawful right, legal defense, legal justification or legal excuse.

13
14 26. As a result of the above violations of the TCPA, Plaintiff has suffered
15 the losses and damages as set forth above entitling Plaintiff to an award of
16 statutory, actual and trebles damages.

17
18
19 WHEREFORE, Plaintiff, LEONARD BULLOCK, respectfully prays for a
20 judgment as follows:

21 a. All actual damages suffered pursuant to 47 U.S.C. §
22 227(b)(3)(A);

23
24 b. Statutory damages of \$500.00 per violative telephone call
25 pursuant to 47 U.S.C. § 227(b)(3)(B);

- 1 c. Treble damages of \$1,500.00 per violative telephone call
2 pursuant to 47 U.S.C. §227(b)(3);
3
4 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
5
6 e. Any other relief deemed appropriate by this Honorable Court.

7
8 **DEMAND FOR JURY TRIAL**

9 PLEASE TAKE NOTICE that Plaintiff, LEONARD BULLOCK, demands
10 a jury trial in this case.

11
12 RESPECTFULLY SUBMITTED

13
14
15 Date: 4/22/19

16 By: /s/ Amy L. B. Ginsburg
17 Amy L. B. Ginsburg, Esq.
18 Kimmel & Silverman, P.C.
19 30 East Butler Pike
20 Ambler, PA 19002
21 Phone: 215-540-8888
22 Fax: 877-600-2112
23 Email: aginsburg@creditlaw.com